

REMARKS

Claims

The Applicants appreciate the Examiner's indication on June 15, 2004 that the case would be allowable if claims 1-20 were cancelled. **Applicants respectfully request that claims 1-20 be cancelled.** The claim remaining in consideration is claim 21.

Drawings

The Applicants appreciate the Examiner's indication that the drawings are approved.

Specification

The term "traverse" has been replaced with "not parallel." Reconsideration is respectfully requested.

Election/Restriction

Applicants request cancellation of non-elected claims 12-20, without prejudice along with cancellation of claims 1-11.

Claim Rejection - 35 U.S.C. § 102

Claim 21 is rejected under 35 U.S.C. § 102(b) as being clearly anticipated by United States Patent No. 5,477,758 to Cunningham (hereinafter "Cunningham").

The Examiner provides a new ground of rejection in the Final Office Action, dated December 17, 2003. In support of his rejection, the Examiner states, in its entirety, that "[n]ew claim 21 is clearly anticipated by Cunningham as the patent clearly shows an intermediate portion 22 at an angle of about 110 degrees to a working end 20 that can have a stud, as shown in Figure 8, and a handle 10 with cushion material 12 as shown in Figure 1." (Office Action, December 17, 2003, Page 3).

Applicants respectfully request reconsideration. First, the Examiner fails to point out that each and every element of Applicants' claimed language is disclosed or taught in Cunningham.

This is so because Cunningham does not teach or disclose each and every element of Applicants' claim.

Specifically, the Applicants claim, among other things, "a **socket mounting member having a spring-urged detent**, the socket mounting member being mounted at a distal end of the wrench end

portion and extending perpendicular thereto **in a direction toward the handle.**" (Claim 21 and Emphasis added). Nowhere in Cunningham does it teach or disclose a "socket mounting member . . . **in a direction toward the handle.**" (Id.). In fact, Cunningham teaches away from the Applicants claimed language. Specifically, Cunningham teaches and discloses a socket mounting member in a **direction away from the handle.** (See for e.g., Figs. 8 and 9). "A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." M.P.E.P §2141.02, *citing*, *W.L. Gore & Associates, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). In this case, Cunningham teaches the exact opposite of the claimed invention. Reconsideration is respectfully requested for this first reason.

Moreover, modifying Cunningham to the structure claimed by the Applicants (i.e., a socket mounting member in a direction toward the handle) would produce a tool that could not be used as an "Automobile Flywheel and Belt Tension Tool Kit" (Citing Title of Cunningham), which is what Cunningham teaches thus defeating its intended purpose in contradiction to M.P.E.P. §2143.01. In any event, modifying Cunningham is not the test. Cunningham does

not even remotely teach or disclose "a socket mounting member . . . in a direction toward the handle." Reconsideration is respectfully requested for this second reason.

Further, Applicants claim "the wrench end and intermediate portion constructed and arranged for insertion through the axle housing of the spoked wheel for engaging the socket with a nut or bolt head on the backside of the spoked wheel so that a user can hold the nut or bolt head while utilizing another wrench at the frontside of the spoked wheel to remove or retighten a bolt to remove and replace a brake drum mounted on the backside of the spoked wheel." (Claim 21). It is inconceivable how Cunningham could be used such that the wrench end is placed through the axle housing of the spoked wheel (in a position toward the handle) for engaging a bolt on the backside of the spoked wheel with the wrench and to remove or retighten the bolt. Cunningham does not teach or disclose an apparatus or device having these limitations.

Instead, Cunningham is intended to remove a bolt on a front surface of a device. Reconsideration for this third reason is respectfully requested.

The Examiner states that "Cunningham . . . **can** have a stud as shown in Figure 8 . . . " (Office Action, date December 17, 2003,

page 3 and Emphasis Added). It is unclear what element of the Applicants' claim the Examiner is referring. In any event, nowhere in Cunningham does it teach or disclose "a spring-urged detent." Moreover, the fact that "Cunningham . . . **can** have a stud" is not the test for anticipation under 35 U.S.C. §102. Because Cunningham does not teach or disclose "a socket mounting member having a spring-urged detent", reconsideration is respectfully requested for this fourth reason.

Finally, Applicants claim "an anti-slip handle at the other end of the intermediate portion and extending in the opposite direction from and substantially parallel to the wrench end portion." (Claim 21). Cunningham does not teach or disclose all of the limitations claimed by the Applicants, including a handle substantially parallel and extending in the opposite direction from and to the wrench end portion. Reconsideration for this fifth reason is respectfully requested.

"A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently, described in a single prior art reference." (M.P.E.P. § 2131). "The identical invention must be shown in as complete detail as contained in the claim." Id. The elements must be arranged as

required by the claim" Id. Cunningham does not describe or teach all of the elements claimed by the Applicants. Reconsideration is respectfully requested. Applicants have pointed out five reasons demonstrating that Cunningham does not teach or disclose each and every element claimed by the Applicants. Each reason alone establishes that Cunningham does not anticipate the Applicants claimed invention. Moreover, when all reasons are combined, it is clear that Cunningham does not even remotely teach or disclose Applicants' claimed invention. Reconsideration is respectfully requested.

It is now believed that the application is in condition for allowance, and a Notice of Allowance is solicited. In any event, Applicants have reduced the contested issues to one issue (i.e., 35 U.S.C. §102) if an appeal is required.

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Filed: October 31, 2000
Serial No. 09/702,957
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The Examiner is invited to telephone the undersigned, Applicants' Attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

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Date: June 16, 2004